

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff,

v.

CR 96-514-MV

MITCHELL BROWN and
SHIRLEY JOYCE TANGA BROWN,

Defendants.

MEMORANDUM OPINION AND ORDER
DENYING MOTIONS IN LIMINE

THIS MATTER comes before the Court on Defendants Mitchell Brown and Shirley Joyce Tanga Brown's Motions in Limine filed November 6, 1997 requesting orders excluding evidence that New Mexico Land Company failed to file federal tax returns for the years 1983 through 1987 and 1992 through 1994 [**Doc. No. 88**]; that the Anthony Mitchell Brown Trust did not file federal tax returns for 1988 through 1994 [**Doc. No.91**]; and that Shirley Joyce Tanga Brown failed to file tax returns for the Anthony Brown Trust from 1983 through 1994 but took the mortgage expense deduction on her personal returns for 1991 through 1994 [**Doc. No. 92**]. The Court, having considered the motions, Defendants' memorandum, Government's response, relevant law and being otherwise fully informed, finds that the motions are not well-taken and will be **DENIED**.

Defendants are charged with concealment of assets from the FDIC, false statements to the

FDIC, bankruptcy fraud, conspiracy and aiding and abetting. The Defendants maintain that evidence of failure to file tax returns should be excluded as irrelevant or should be excluded under Federal Rule of Evidence 403 as more prejudicial than probative. The Government argues that all three of the above entities were used merely as sham mechanisms and nominees to conceal the true nature and control of assets held and controlled by Defendants. The Court agrees with the Government that the filing of tax returns and reporting of income may be an important indication of whether the entity is a legitimate active business. Accordingly, evidence related to whether the trusts or the New Mexico Land Company were legitimate, independent entities is necessary to the jury's determination of whether Defendants' used trusts and company names to conceal personal assets and thereby defrauded the FDIC and the Bankruptcy Court.

IT IS THEREFORE ORDERED that Defendants Mitchell Brown and Shirley Joyce Tanga Brown's three motions in limine filed November 6, 1997 [**Doc. No.'s 88, 91, and 92**] requesting orders excluding evidence related to the filing of tax returns by Anthony Mitchell Brown Trust, Anthony Brown Trust and New Mexico Land Company are hereby **DENIED**.



MARTHA VÁZQUEZ
UNITED STATES DISTRICT JUDGE

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